

REMARKS

The Official Action of October 9, 2007, has been carefully reviewed. Reconsideration of the application in view of the following remarks is respectfully requested.

Restriction Requirement

Under 35 U.S.C. 121 and 372, the Examiner required restriction among:

Group I, Claims 9-15, drawn to a method for the treatment of neurodegeneration comprising administering a glycine/NMDA antagonist and a tachykinin NK-1 antagonist; and

Group II, Claim 16, drawn to a pharmaceutical composition comprising a glycine/NMDA antagonist and a tachykinin NK-1 antagonist.

In response to this requirement, the Applicants elect Group I, Claims 9-15, drawn to a method for the treatment of neurodegeneration comprising administering a glycine/NMDA antagonist and a tachykinin NK-1 antagonist without traverse.

The claims reading on this group are Claims 9-15.

This election is being taken without prejudice to the filing of a divisional application directed to the non-elected subject matter. In accordance with the third sentence of 35 U.S.C. § 121, a patent issuing from the instant application should not be a reference against a divisional application filed before the issuance of such patent. Applicants preserve the right to file divisional applications on the remaining subject matter.

Under 35 U.S.C. § 121, the Examiner further required election of a single species of (1) a glycine/NMDA antagonist, (2) a tachykinin NK-1 antagonist, and (3) a neurodegeneration.

In response to this requirement, Applicants hereby elect: (1) a glycine/NMDA antagonist which is designated "UK-33,747" and which is depicted on page 4, line 2 and in Claim 10, (2) a tachykinin NK-1 antagonist which is aprepitant, and (3) a neurodegeneration which is a neurodegeneration that results from stroke.

The claims reading on the election of: (1) a glycine/NMDA antagonist which is designated "UK-33,747" are Claims 9, 10 and 12. The claims reading on the election of: (2) a tachykinin NK-1 antagonist which is aprepitant are Claims 9 and 13. The claims reading on the election of: (3) a neurodegeneration which is a neurodegeneration that results from stroke are Claims 9 and 14.

This election is being taken without prejudice to the filing of a divisional application directed to the non-elected subject matter. In accordance with the third sentence of 35 U.S.C. § 121, a patent issuing from the instant application should not be a reference against a divisional application filed before the issuance of such patent. Applicants preserve the right to file divisional applications on the remaining subject matter.

Applicants respectfully contend that the application is allowable and a favorable response from the Examiner is earnestly solicited.

Respectfully submitted,

By 
J. Eric Thies
Reg. No. 35,382
Attorney for Applicant

MERCK & CO., Inc.
P.O. Box 2000
Rahway, New Jersey 07065-0907
(732) 594-3904

Date: November 8, 2007